IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 14810 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DRUV MAKHAN INDIA LTD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 14810 of 2004

MR UMANG K CHOKSI for Petitioner No. 1

Mr. PD Bhate, AGP for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 18/12/2004

ORAL JUDGEMENT

Rule. Mr. PD Bhate, learned AGP waives service of Rule on behalf of the respondents. With the consent of parties, the matter is taken up for final hearing today.

2. In this petition under Article 226/227 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by the

respondent No.3 dated 12th October 2004 by which in exercise of powers under Section 32-A of the Bombay Stamp Act, 1958 {"the Act" for short} the respondent has directed the petitioner to pay an amount of Rs. 1,54,740 by way of deficit stamp duty and Rs. 250 by way of penalty. It is the case of the petitioner that the petitioner was served with notice under Rule 4 of the Bombay Stamp (Determination of Market Value of Property) Rules, 1984 ["the Rules" for short] issued by the respondent No.3 in exercise of powers under Section 32-A if the Act. In response to the same, the petitioner filed a written statement on 12th January 1999. It is further submitted that the petitioner came to be served with the impugned order dated 12th October 2004 by which it appears that one order passed by the respondent No.3 dated 11.8.2000 came to be modified and the impugned order came to be passed. It is submitted that in fact the petitioner is not served with any order, i.e. original order dated 11.8.2000 which was sought to be modified and which is modified vide impugned order dated 12th October 2004. It is also further submitted that in the impugned order dated 12th October 2004 in fact there is nothing mentioned on what basis the value of the property is fixed by the respondent at Rs. 14,56,950. Thus, as such the impugned order dated 12th October 2004 is a non-speaking order. It is also further submitted that before passing the impugned order no opportunity of personal hearing has been given to the petitioner.

3. In response to the notice issued by this Court, Shri PD Bhate, learned AGP appears on behalf of the respondents. No affidavit-in-reply is filed on behalf of the respondents denying the contentions of the petitioner with regard to non-receipt of the order dated 11.8.2000 which is now modified vide impugned order dated 12th October 2004. Even otherwise, from the bare reading of the impugned order dated 12th October 2004, it is clear that nothing has been mentioned on what basis the respondent No.3 has determined the market value of the property in question at Rs. 14,56,950 and the said order is a non-speaking order and is also in breach of principles of natural justice.

4. Under the circumstances, the impugned order dated 12th October 2004 is required to be quashed and set aside and the same is quashed and set aside and the matter is remanded to the respondent No.3 for taking appropriate decision and passing a fresh order in accordance with law and on merits and after giving opportunity of personal hearing to the petitioner. Rule is made absolute with no order as to costs.

[M.R. Shah, J.]

rmr.